

1 which is supplemental and additional information.

2 MR. SHUBERT: May I be heard, Your Honor?

3 JUDGE LUTON: I want to be sure before you speaking  
4 that I'm appreciating what has been stated to me here. Mr.  
5 Willson is the absentee owner of three mobile home parks. He  
6 visits two of them one day on an average once every two  
7 months, both on the same day, one every two to three months,  
8 less than a day. Where is that information in the -- where is  
9 that covered in the integration statement?

10 MR. FITCH: That information is not covered in the  
11 integration statement.

12 JUDGE LUTON: It's not?

13 MR. FITCH: No.

14 JUDGE LUTON: Okay.

15 MR. SHUBERT: May I be heard, Your Honor, because  
16 it's a very salient point?

17 JUDGE LUTON: I'm going to give you a chance. Just  
18 let me help myself here for a minute. If that's not in the  
19 integration statement, then I suppose it follows that one of  
20 the things that's objected to specifically, the length of time  
21 that it takes to drive to the park, the parks, is also not in  
22 the integration statement, (a), and the claim is that putting  
23 it in the direct case makes for a comparative upgrade or an  
24 attempt to upgrade?

25 MR. SHUBERT: The critical factor here is, Your

1 Honor, both in the application as originally filed and in the  
2 integration statement. They have indicated that they are  
3 going to claim knowledge of the community, civic involvement,  
4 as the result of Mr. Willson's business contacts and what  
5 they're doing here is reciting his business contacts, and I  
6 submit that if they haven't done it before, then it is a  
7 comparative upgrade.

8 MR. FITCH: Your Honor, that's --

9 JUDGE LUTON: Citing his business contacts?

10 MR. SHUBERT: Their -- in the application -- let me  
11 direct your attention to the application, Your Honor. Where  
12 is it at? They specifically stated in the integration exhibit  
13 in their application --

14 JUDGE LUTON: Well, let's take a five minute recess  
15 while we --

16 (Off the record at 10:10 a.m., back on the record at  
17 10:14 a.m.)

18 JUDGE LUTON: Let's resume. Mr. Shubert, you were  
19 making a point having to do with --

20 MR. SHUBERT: The point that I'm --

21 JUDGE LUTON: -- knowledge of the community,  
22 business contacts.

23 MR. SHUBERT: The application states, Your Honor, on  
24 Exhibit 3 of Gary E. Willson with his application as  
25 originally filed in November 1991 that, "Mr. Willson will seek

1 an enhancement credit for his business connections with Santa  
2 Rosa and for his familiarity with the community." Now, we may  
3 have had -- the spill of the water may have been a propitious  
4 occasion because, in reflection on this during the break, I  
5 think I'll withdraw my objection.

6 JUDGE LUTON: All right. Next one?

7 MR. SHUBERT: Next, Your Honor, I object to the  
8 language contained on page 3 in the sentence beginning,  
9 "Issues discussed include the tenants, maintenance problems  
10 and other management related issues." It begins on line 13.  
11 I object to that on the grounds of relevance. It's totally  
12 unrelated to what we're doing here today.

13 MR. FITCH: Your Honor?

14 JUDGE LUTON: Excuse me. Okay. Yes, Mr. Fitch?

15 MR. FITCH: Your Honor, it simply provides more  
16 detail about what Mr. Willson currently does with his  
17 businesses. The Commission seems to be concerned these days  
18 with the degree of involvement with ongoing businesses.  
19 That's exactly what we're providing. We're providing that  
20 information. That's why it has been provided.

21 JUDGE LUTON: I understand that. In the face of  
22 this objection to it, I'm going to grant the motion to strike  
23 it. I don't think you should push it very much, however, but  
24 it is stricken.

25 MR. SHUBERT: Next, Your Honor, on page 5, the top

1 paragraph, the last two sentences in that paragraph, "The  
2 travel time between his home in Larkspur and Calistoga is  
3 approximately a one hour drive each way. He will have a car  
4 phone so he can conduct business while driving." I object to  
5 that on the grounds that it's a variance, that based upon  
6 their representations that they're going to try to claim  
7 enhancements because of business contacts, that that language  
8 is at variance to the integration statement and the  
9 application.

10 MR. FITCH: Your Honor, I can't object -- I mean, I  
11 object, but I don't understand the -- I mean, I would respond,  
12 but I don't understand the objection. It doesn't make sense  
13 to me.

14 MR. SHUBERT: It upgrades his -- if you're -- unless  
15 there's no comparative credit is being claims, if we can have  
16 that stipulation for that, then I have no problem with it.

17 JUDGE LUTON: Well, would you state for us again  
18 what your problem with it is?

19 MR. SHUBERT: My problem is that I perceive that we  
20 will see that this is somehow going to relate to how well he  
21 knows the community and to his business contacts on a  
22 comparative basis because they have previously stated that his  
23 business contacts are going to be relied upon by them as one  
24 of their supposed enhancements for his comparative case.

25 MR. FITCH: Your Honor, this --

1 JUDGE LUTON: This seems to be talking, primarily  
2 anyway, about travel time from his home to the station which  
3 is all here.

4 MR. FITCH: Exactly.

5 JUDGE LUTON: That should be the first sentence, the  
6 first and the second. What is that, 1, 2, the first 3  
7 sentences don't seem to say anything about business contacts.  
8 Well, then perhaps it's the last sentence in that paragraph  
9 that causes you concern?

10 MR. SHUBERT: Well, they both --

11 JUDGE LUTON: -- so they can conduct business of  
12 some sort.

13 MR. SHUBERT: There's a question of relevancy here,  
14 too. What's the relevancy if he's conducting --

15 JUDGE LUTON: Deal with them one at a time, for  
16 Pete's sake.

17 MR. SHUBERT: All right.

18 JUDGE LUTON: I mean -- you know, we can --

19 MR. SHUBERT: Sorry, Your Honor.

20 JUDGE LUTON: -- get into an ongoing round table  
21 discussion and sit here for the next two weeks.

22 MR. SHUBERT: I apologize, Your Honor. This is not  
23 contained in the integration statement.

24 JUDGE LUTON: What is this? What is this?

25 MR. SHUBERT: The language starting with, "The

1 travel," and ending at the second sentence, "While driving."  
2 None of that language is contained in the integration  
3 statement.

4 MR. FITCH: Your Honor, that's in there.

5 JUDGE LUTON: Please point to me -- point it out to  
6 me.

7 MR. FITCH: No. It's not in the integration  
8 statement, but it doesn't -- it's irrelevant. It doesn't have  
9 to be in the integration statement. This -- well, I'm sure  
10 Your Honor understands what I'm saying here. The point of the  
11 matter is, as Your Honor rightly pointed out, these sentences  
12 are within the context of where Mr. Willson currently resides.  
13 We are trying to inform Your Honor as well as opposing counsel  
14 where Larkspur is in relation to Calistoga which is the  
15 proposed city of license. We are merely stating that it's an  
16 hour away and that that's, that's an easy commute for Mr.  
17 Willson. It has nothing to do --

18 JUDGE LUTON: Insofar as the objection is based on  
19 some sort of claim that this will credit his -- based on  
20 alleged business contacts, I don't think the -- this portion  
21 of the direct case really goes to that, not even that sentence  
22 necessarily. I mean, if it does, it doesn't mean anything,  
23 which says that Mr. Willson will have a phone so that he can  
24 conduct business of some sort while driving. So much of the  
25 objection suspends on that basis. I simply overrule. Now,

1 | you were about to change -- move to another objection, Mr.  
2 | Shubert. I believe that was relevance.

3 | MR. SHUBERT: Correct.

4 | JUDGE LUTON: All right. Now, would you state your  
5 | relevance objection for me, please?

6 | MR. SHUBERT: The travel time between Larkspur and  
7 | Calistoga I would submit, plus the fact that he's going to  
8 | have to the car -- a phone in his car, is irrelevant unless  
9 | it's going to show how he's going to implement his integration  
10 | statement and then I'll go back to the fact that it's -- that  
11 | would then constitute an upgrade.

12 | MR. FITCH: Your Honor, if I may respond?

13 | JUDGE LUTON: Yes.

14 | MR. FITCH: It's highly relevant because it shows  
15 | that the commute to the station is a one hour commute. It  
16 | puts to, its puts to rest any concern that may have arisen  
17 | concerning that. It is not a, it is not a point that needs to  
18 | be included in an integration statement. An integration  
19 | statement is not a direct case. They're two different items.  
20 | A direct case is always more detailed than an integration  
21 | statement, nor is this direct case at variance with our  
22 | integration statement. We are simply providing relevant  
23 | information concerning Mr. Willson's integration proposal.

24 | JUDGE LUTON: There's no objection to the statement  
25 | of the distance between Mr. Willson's residence and the

1 proposed station's 1 mv contour, 32 miles from that. It's  
2 easy to imagine the time, might take an hour. No. It's  
3 stated to be about an hour. So what? The fact that -- or the  
4 claim that Mr. Willson will have a phone in his car, who  
5 really cares? I mean, it's, it's not relevant. At the same  
6 time it's totally harmless, as these cases go. I just don't  
7 see that as being a substantive objection. My inclination to  
8 this -- in order to try to discourage this kind of objection  
9 is to simply overrule it, but because I'm convinced that it is  
10 -- it doesn't make any difference whether he has a phone in  
11 his car or not and because in the past I have stricken things  
12 that I have denominated to be irrelevant rather than let them  
13 stand because I also view them as harmless, I'm going to grant  
14 the motion to strike the last sentence, the one that says he  
15 will have a phone in his car so that he can conduct business  
16 while driving. Motion's granted to that extent. Next  
17 objection?

18 MR. SHUBERT: I direct your attention to the bottom  
19 of page 5, Your Honor, beginning with the last sentence on  
20 that page, "Since 1988 as the result of his ownership of  
21 businesses in Santa Rosa," and it goes to list all -- a whole  
22 list of businesses, and it also -- then it carries over at the  
23 top of the next page and it says, "He also has business  
24 dealings and accounts with the following," and he lists the  
25 various bank accounts. And then he goes on to talk about



1 business contacts since 1992 including Shamrock Materials and  
2 Al's Handyman Service. I submit to Your Honor that, one, this  
3 is the very first time any of this has come up including in  
4 discovery. Number two, there is nothing about this contained  
5 in the integration statement. Therefore, I submit it is a  
6 comparative or an attempt at a comparative upgrade and,  
7 therefore, at variance to all of the prior information that  
8 they have provided us so far.

9 MR. FITCH: Your Honor, I would respond again to  
10 that, that we are -- that Willson has made clear from the very  
11 beginning that he intended to under the policy statement which  
12 specifically states, "Have participation in civic affairs will  
13 be considered as part of a participating owner's local  
14 residence background," and this is the relevant language, "as  
15 will any other local activity indicating a knowledge of and  
16 interest in the welfare of the community." Willson is, on the  
17 basis of that language in the policy statement, and has from  
18 the beginning, and it's in his application, indicated that he  
19 would attempt to claim some credit because of his ongoing  
20 involvement in the community. This information is provided to  
21 detail, further detail, what that involvement is.

22 JUDGE LUTON: Mr. Fitch, does what's stated there  
23 really provide us with the details of what the contact has  
24 been? Does it really say anything about the acquisition of  
25 knowledge in the interest -- needs of the community or does it

1 simply list what are considered to have been a number of  
2 contacts? Without further specification, doesn't it leave  
3 quite a lot to the imagination for a decision maker in this  
4 case --

5 MR. FITCH: Your Honor --

6 JUDGE LUTON: -- to draw the conclusion that on the  
7 basis of these contacts that some good out of the Commission's  
8 policy statement occurred?

9 MR. FITCH: Your Honor, I would say that it does,  
10 within the context of the exhibit as a whole. I think that's  
11 why the exhibit is put together as it is under this section.  
12 I think you can't explain that.

13 JUDGE LUTON: Explain that.

14 MR. FITCH: Well, I don't think you can isolate one  
15 --

16 JUDGE LUTON: Well, let's not isolate it. Relate,  
17 relate the statement to me. You assure me that the statement  
18 is constructed in such a way as to put flesh on this  
19 particular skeleton. Please show me how.

20 MR. FITCH: All right. The paragraph here, both  
21 paragraphs, which show various contacts with business -- with  
22 banks and with providers of services must be read within the  
23 context of other paragraphs in here.

24 JUDGE LUTON: Where are the paragraphs?

25 MR. FITCH: All right.

1 MR. SHUBERT: Perhaps --

2 JUDGE LUTON: Excuse me. Let's -- one thing at a  
3 time.

4 MR. SHUBERT: I'm sorry.

5 MR. FITCH: It's a way of fleshing out, for  
6 instance, the means by which Mr. Willson is acquainted with  
7 the types of issues and concerns typically confronted by small  
8 business owners. The contact would be the method by which he  
9 would obtain this knowledge.

10 JUDGE LUTON: Okay. What portion of the --

11 MR. FITCH: Oh, I'm sorry. This is the next  
12 paragraph, page -- Exhibit 1, page 6, middle paragraph.

13 MR. SHUBERT: Which I'll note, Your Honor, I have an  
14 objection to.

15 MR. FITCH: And it goes on -- that same paragraph  
16 goes on to detail what some of those identified needs that are  
17 a result of these contacts are and then it goes on to discuss  
18 Mr. Willson's Sandy Point IV project which is a low income  
19 housing project and Mr. Willson's contact with the Hispanic  
20 community and the knowledge he's obtained as a result of that.  
21 These are all, these are all occurrences within the service  
22 area, within Santa Rosa which is the largest community within  
23 the service area. It has been ongoing since 1988.

24 JUDGE LUTON: Well, you call them occurrences, but  
25 actually the exhibit calls them contacts. It doesn't call

1 | them any more than that. And then from these contacts a  
2 | conclusion is thought to be drawn, namely Mr. Willson, because  
3 | of these contacts, is acquainted with certain types of issues.  
4 | That doesn't change the nature of what's stated, namely they  
5 | were contacts, leaving the nature of them to the imagination,  
6 | the extent of them, the usefulness of them, the significance  
7 | of them except -- well, until we get to the conclusion, that  
8 | is put forward. As a result of these contacts Mr. Willson is  
9 | acquainted with contacts. One objection at a time. The  
10 | objection is -- state it for me again, please.

11 |           MR. SHUBERT: That that language constitutes a  
12 | comparative upgrade and is at variance to the language  
13 | contained in the integration statement.

14 |           JUDGE LUTON: Well, I -- I'm not even sure that it  
15 | constitutes any kind of upgrade. I'm not sure that it means a  
16 | thing. I mean, if I'm trying to write a decision and I got  
17 | something before me that says that Mr. Willson has had a bunch  
18 | of contacts, the next thing that's going to occur to me what  
19 | was the nature of them before I get around to trying to draw a  
20 | conclusion about what was the efficacy, what might have been  
21 | the efficacy of those contacts -- comparative issue. But  
22 | since I'm told the effort is to seek some sort of comparative  
23 | credit here, I have to accept that, but then I get the problem  
24 | of whether this is covered in the integration statement  
25 | already or is not covered. Is it covered in any way, Mr.

1 Fitch?

2 MR. FITCH: Yes, Your Honor, it is.

3 JUDGE LUTON: Covered --

4 MR. FITCH: Again, our direct case is more detailed  
5 than the integration statement.

6 JUDGE LUTON: I understand. I understand.

7 MR. FITCH: Our integration statement --

8 JUDGE LUTON: Will you allow me one with the --

9 MR. FITCH: Sure.

10 JUDGE LUTON: I've got your integration statement  
11 here.

12 MR. FITCH: Oh, that's all right. Mr. Shubert had  
13 an extra copy so I --

14 JUDGE LUTON: Thank you.

15 MR. FITCH: Let's see. It would be included, Your  
16 Honor, in paragraph 6. Again, a more condensed version of  
17 what we are attempting to claim.

18 JUDGE LUTON: Okay. This is under --

19 MR. FITCH: Local Residence.

20 JUDGE LUTON: Local Residence. It says as a  
21 business owner in Santa -- this, it being the integration  
22 statement. "Mr. Willson is acquainted with the types of  
23 issues and concerns typically confronted." Is that the one  
24 you're talking about?

25 MR. FITCH: Yes.

1 JUDGE LUTON: All right. Mr. Fitch, am I reading it  
2 correctly? If I were to say, if I were to to say that the  
3 integration statement is conclusory and that it purports to  
4 tell us what Mr. Willson is acquainted with and that the  
5 direct case provides a specification for that conclusion,  
6 namely -- well, the specification being the listing of  
7 businesses with which Mr. Willson has had contact, not stated  
8 very prettily, but --

9 MR. FITCH: Well, I think another way to state it is  
10 that the direct case provides further detail of the outline  
11 set forth in the integration statement.

12 JUDGE LUTON: I am going to overrule the objection  
13 and permit the listing of businesses to stand stating,  
14 however, that it is my view that the evidence does not count  
15 for much. That is because we're only told that contacts were  
16 made. Contacts have been made. The nature of them, how  
17 weighty they may have been, how fleeting, how long standing,  
18 how substantial, how insubstantial, -- stated. Consequently,  
19 I don't think the evidence would count for a great deal, if  
20 anything at all, but for purposes of admissibility I'm  
21 satisfied that the general statement and the integration  
22 statement is sufficient to cover the more detailed  
23 specification of those activities in the exhibit.  
24 Consequently, the objection is overruled.

25 MR. SHUBERT: Thank you, Your Honor. Our next

1 objection, Your Honor, is page 6, the very next paragraph  
2 beginning on --

3 JUDGE LUTON: I have a feeling that we're wasting a  
4 lot of time this morning, quite frankly. We're moving awfully  
5 slowly. Is there -- do you have objections -- can you group  
6 them so that we might deal with them all at once and get  
7 through?

8 MR. SHUBERT: Yes, I can.

9 JUDGE LUTON: Okay. Otherwise, we're going to just  
10 spend more time than necessary on this.

11 MR. SHUBERT: All right. The first -- or the next  
12 objection, Your Honor, deals with the very next sentence in  
13 that paragraph. That paragraph beginning, "As a current and  
14 past owner?" We're on page 6. The very next paragraph that  
15 we -- after the one we just talked about. The paragraph  
16 begins "As a current and past business owner in Santa Rosa,  
17 Mr. Willson is acquainted with the types of business -- types  
18 of issues and concerns typically confronted by small  
19 businesses," etc. That sentence and the sentence at the  
20 bottom of the page, four lines up from the bottom, which  
21 begins, "This business has also enhanced Mr. Willson's  
22 familiarity with the service area, especially housing issues,"  
23 I object to both of those sentences on the grounds they are  
24 conclusory.

25 JUDGE LUTON: They certainly are.

1 MR. FITCH: Your Honor --

2 JUDGE LUTON: But I will permit a response.

3 MR. FITCH: It's Mr. --

4 JUDGE LUTON: I'm sorry. Go ahead.

5 MR. FITCH: It's Mr. Willson's opinion, Your Honor,  
6 --

7 JUDGE LUTON: Right.

8 MR. FITCH: It's his opinion about his experience as  
9 a business owner.

10 JUDGE LUTON: Right, and as an evidentiary matter  
11 Mr. Willson's opinion about these things is really quite  
12 irrelevant. I'm going to grant the motion and strike the two  
13 sentences, the one beginning, "As a current and past business  
14 owner," etc. and the other one on page 6 which begins, "This  
15 business has also enhanced." They're conclusory, no probative  
16 value in my judgment and, consequently can be and are  
17 stricken.

18 MR. FITCH: Your Honor, could you -- the first  
19 sentence on paragraph -- I'm sorry, page 6, middle paragraph,  
20 first sentence, is that what you're striking?

21 JUDGE LUTON: Yes.

22 MR. FITCH: And then the last paragraph -- next to  
23 the last -- second to the last sentence?

24 JUDGE LUTON: That's correct.

25 MR. FITCH: Just so it's clear for the record, I --



1 I'm noting my objection. I've responded, but I haven't said  
2 technically the word objection. I am --

3 JUDGE LUTON: Please.

4 MR. FITCH: Exception, objection, whatever.

5 JUDGE LUTON: I understand.

6 MR. FITCH: Okay.

7 MR. SHUBERT: I have two more to make and that's it,  
8 Your Honor --

9 JUDGE LUTON: All right.

10 MR. SHUBERT: -- because I will lump them together.  
11 The next sentence, Your Honor, in the middle paragraph, the  
12 second sentence, the listing of what the needs to be addressed  
13 are, there is no ascertainment issue in this proceeding. That  
14 information or that statement is totally irrelevant to the  
15 proceeding.

16 JUDGE LUTON: Well, it, it wasn't put in there  
17 because -- to address any kind of ascertainment question. It  
18 was intended really for its usefulness on the sentence which  
19 precedes it which has not been stricken. Consequently,  
20 standing by itself I think it adds absolutely nothing. It  
21 means nothing and I'm prepared to strike it, as well. So the  
22 entire paragraph is stricken. That's the middle paragraph on  
23 page 6.

24 MR. FITCH: I would note my objection and note that  
25 that, that language, in fact, identifies needs in the

1 community as, as ascertained by Mr. Willson upon his  
2 experience in the -- within the community.

3 JUDGE LUTON: Next objection?

4 MR. SHUBERT: There are several paragraphs or  
5 sentences, Your Honor, and I think one of your prior rulings  
6 will cover these, but I would like to note my objection for  
7 the record. On the bottom of page 6, the last sentence that  
8 starts on that page beginning, "Mr. Willson has had contacts  
9 since 1992 with the Sonoma County Planning Department,"  
10 running over to the top of the next page. Then the following  
11 paragraph I'm objecting to in its entirety. Also on page 7 at  
12 the bottom of the page, fifth line up from the bottom of the  
13 page, the sentence beginning, "Mr. Willson attended workshops  
14 in June sponsored by the Santa Rosa Chamber of Commerce,"  
15 running to the bottom of that page. The -- on page 8 the  
16 second sentence in the top paragraph and the last paragraph on  
17 that page I object to on the grounds it is at variance to the  
18 integration statement.

19 JUDGE LUTON: Well, you name several things there.

20 MR. SHUBERT: Would you like me to recap them, Your  
21 Honor, or --

22 JUDGE LUTON: Yeah, I think so. I mean, do you have  
23 the same objection to, to each one of them?

24 MR. SHUBERT: They're all the same. They're all at  
25 variance. I was trying to lump them together as you had

1 suggested.

2 JUDGE LUTON: That they're all at variance?

3 MR. SHUBERT: Yes.

4 JUDGE LUTON: Let's go back to the first one at the  
5 bottom of page 6 and take them one at a time now. "Mr.  
6 Willson has had contacts."

7 MR. SHUBERT: Correct. That's --

8 JUDGE LUTON: Well, the ruling, the ruling that I  
9 made before where something like that was stated was to let it  
10 stand while expressing my view that it didn't -- it wasn't  
11 particularly informative or probative.

12 MR. SHUBERT: Right.

13 JUDGE LUTON: Now what was the next one?

14 MR. SHUBERT: The next -- the first full paragraph  
15 on page 7, Your Honor.

16 JUDGE LUTON: And this is called a variance from the  
17 application?

18 MR. SHUBERT: Yes, Your Honor.

19 JUDGE LUTON: Or from the integration statement,  
20 more precisely. Please respond, Mr. Fitch, if you're ready.

21 MR. FITCH: My response would be the same earlier on  
22 these -- as I made earlier on these so-called variance  
23 arguments. The integration statement, as with the initial  
24 application where the integration statement was slightly more  
25 detailed, simply sets forth the outline of Willson's intent to

1 claim credit for his business involvement. This particular  
2 Advo Systems contact, connection, employment was not mentioned  
3 in the integration statement, but the fact that we were  
4 claiming credit for business contacts was. This is simply  
5 fleshing out what that proposal in our integration statement  
6 was all about.

7 JUDGE LUTON: How did I rule on that before, let it  
8 stand?

9 MR. SHUBERT: Yes, you did, Your Honor.

10 JUDGE LUTON: Yeah, I thought so. I have to ask  
11 because I'm not always consistent here. All right. The  
12 objection is overruled.

13 MR. SHUBERT: The next body of language was at the  
14 bottom of that page, Your Honor, on page 7 constituting  
15 actually the last two sentences on that page.

16 JUDGE LUTON: All right. Same ruling.

17 MR. SHUBERT: Likewise, in the top paragraph on page  
18 8, Your Honor, the second and third full sentences in that  
19 paragraph.

20 JUDGE LUTON: Those sentences, "He is currently  
21 actively working as Publicity Chairman," and then the other  
22 one, "The tournament is to benefit the Special Olympics,"  
23 those are the ones that you are objecting to?

24 MR. SHUBERT: Yes.

25 JUDGE LUTON: Those two?

1 MR. SHUBERT: Yes.

2 JUDGE LUTON: Okay. These, Mr. Fitch, do not seem  
3 to have to do with business contacts so much as perhaps a  
4 civic activity.

5 MR. FITCH: That's correct, Your Honor. That civic  
6 activity was identified in the integration statement.

7 JUDGE LUTON: Well --

8 MR. FITCH: We're simply, we're simply providing  
9 additional detail about what Mr. Willson has done as a member.

10 JUDGE LUTON: But it's specifically mentioned in the  
11 integration statement somewhere, Sonoma Special Olympics  
12 volunteer.

13 MR. FITCH: Correct.

14 JUDGE LUTON: Okay. It seems to me to be covered in  
15 the integration statement, Mr. Shubert, to a degree sufficient  
16 to permit it to stand in the direct testimony. The objection  
17 is overruled.

18 MR. SHUBERT: Lastly, Your Honor, the last paragraph  
19 on that page on the grounds of variance and I would note that  
20 these activities occurred after the filing of the integration  
21 statement.

22 MR. FITCH: They did, Your Honor, but I believe  
23 consistent with your rulings yesterday when the whole issue  
24 came up about how the Commission considers civic activities  
25 post-filing activities are, are considered and these

1 activities did occur subsequent to the filing of the  
2 integration statement which is why they didn't appear in the  
3 integration statement.

4 JUDGE LUTON: Well, we're talking about one  
5 activity, are we not, a one day seminar? That's what I'm  
6 reading here.

7 MR. FITCH: Yes, that's correct, Your Honor.

8 JUDGE LUTON: Well, a very -- it may have been a  
9 significant occurrence in another context, but here it's just  
10 a one day seminar on something or other which occurred since  
11 the filing of the integration statements and, therefore, in  
12 your view it ought not be received --

13 MR. SHUBERT: That's correct.

14 JUDGE LUTON: -- for anything at all.

15 MR. SHUBERT: I mean, at some point the case has to  
16 be frozen.

17 JUDGE LUTON: That's true and it's not clear in my  
18 mind. I haven't seen any cases dealings squarely with, with  
19 the matter beyond those which seem to say that civic  
20 activities occurring after the cutoff date can be counted. I  
21 don't know of any that speak to activities occurring after the  
22 filing of an integration statement. I just don't know. Is  
23 counsel aware of any?

24 MR. FITCH: I'm not aware of any. I think it's an  
25 open question, Your Honor.

1 JUDGE LUTON: I think it is. It is.

2 MR. FITCH: I believe, I believe you let some in on  
3 the other side that were post --

4 MR. SHUBERT: I don't agree. That wasn't --

5 JUDGE LUTON: That wasn't pointed out to me at the  
6 time, however. The argument was made on the basis of --

7 MR. FITCH: Okay.

8 JUDGE LUTON: It was filed after the cutoff date.

9 MR. FITCH: I guess -- I take that back.

10 MR. SHUBERT: -- Your Honor.

11 JUDGE LUTON: Yeah.

12 MR. FITCH: Apparently I was wrong anyway, so I take  
13 it back.

14 JUDGE LUTON: Well, I don't see -- or I'm not aware  
15 of any, any reason, rule or anything else which would require  
16 me to exclude this. I'd be blazing a new trail I think if I  
17 were to exclude it because the activity occurred subsequent to  
18 the submission of the integration statements. I'm going to  
19 receive this and if counsel -- and permit counsel to raise the  
20 matter again by way of argument in the proposed findings.  
21 Maybe by that time we will have gotten something or perhaps  
22 somebody can -- something will have happened. But for now it  
23 seems to me that the proper thing for me to do is to receive  
24 this recently occurring civic activity, a one day seminar  
25 attended by Mr. Willson in 1993. That's my ruling.

1 MR. SHUBERT: I have no other objections, Your  
2 Honor.

3 JUDGE LUTON: All right. Then Willson's direct case  
4 is received in evidence as Willson's Exhibit 1.

5 (The document that was previously  
6 marked for identification as  
7 Willson's Exhibit No. 1 was received  
8 into evidence.)

9 JUDGE LUTON: Is the witness now available for  
10 cross-examination?

11 MR. FITCH: Yes, Your Honor.

12 JUDGE LUTON: All right.

13 MR. SHUBERT: Would counsel provide or does the  
14 witness have a copy of his application?

15 MR. FITCH: Let the record reflect I'm placing a  
16 copy of Mr. Willson's application dated November 16, 1991  
17 before the witness.

18 JUDGE LUTON: We only had a brief recess a little  
19 while ago. Perhaps we'll have to take a somewhat longer one  
20 now to make sure that everybody's prepared to sit for awhile.  
21 Let's take 15 minutes.

22 (Off the record at 10:47 a.m., back on the record at  
23 11:01 a.m.)

24 JUDGE LUTON: We will now begin the cross-  
25 examination of Mr. Willson.



1 MR. SHUBERT: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SHUBERT:

4 Q Mr. Willson, do you have a copy of your application  
5 before you?

6 A Yes, sir, I do.

7 Q Would you take a moment please, sir, just to review  
8 that for us. I'll have some questions for you. You're  
9 familiar with the application obviously?

10 A Oh, yes.

11 Q Did you participate in the preparation of this  
12 application?

13 A Yes.

14 Q And what part did you play?

15 A I filled out the application.

16 Q You manually filled it out?

17 A Yes.

18 Q In draft form?

19 A Yes.

20 Q And what did you do with the draft after you  
21 prepared it?

22 A I send it to Wray.

23 Q Wray being Wray Fitch?

24 A Wray Fitch, yes.

25 Q Was the application then processed by his office and